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15 **UNITED STATES BANKRUPTCY COURT**

16 **DISTRICT OF NEVADA**

17
18
19 In Re:

Case No. BK-18-12734-MKN

20 SCHULTE PROPERTIES LLC,

Chapter 11

21 Debtor
22
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24 **EX PARTE MOTION FOR ORDER REQUIRING THE PERSON MOST**
25 **KNOWLEDGEABLE OF SN SERVICING CORPORATION TO APPEAR FOR**
26 **EXAMINATION PURSUANT TO FED. R. BANKR. P. 2004 REGARDING PROPERTY**
LOCATED AT 2525 VIA DI AUTOSTRADA

Pursuant to Federal Rule of Bankruptcy Procedure 2004 and Local Rule 2004, Schulte Properties LLC, (“Schulte”), the debtor in the above-referenced case, moves the Court for an *ex parte* Order under Bankruptcy Rule 2004 requiring the person most knowledgeable of SN Servicing Corporation, (“SN Servicing”) the mortgage servicer for debtor’s property at 2525 Via Di Autostrada, Henderson, NV 89074 (“2525 Via Di Autostrada”), to appear as set forth in a subpoena to be issued pursuant to Federal Rule of Bankruptcy Procedure 9016, at a time, place, and date to be mutually agreed upon by the parties, or if no such agreement is reached, upon no less than fourteen (14) calendar days written notice by Schulte for examination, regarding the Debtor’s mortgage account and SN Servicing’s servicing of Debtor’s mortgage loan account. The terms “you” or “your” as used herein shall refer to the Defendant SN Servicing, and any related or affiliated companies. This Motion is supported by the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Fed. R. Bankr. P. 2004 provides, in relevant part, that upon motion of any party in interest, the court may order the examination of the debtor or any other entity regarding the acts, conduct, property, liabilities, and financial conditions of the debtor, or any other matter which affects the administration of the debtor’s estate or the debtor’s right to a discharge. Rule 2004 further provides that production of documents may be compelled at this examination.

Schulte seeks to conduct an oral examination relating to the Debtor’s mortgage account and servicing at 2525 Via Di Autostrada by SN Servicing to inquire as follows:

- a. How you or your predecessor(s) calculated interest on the amount you claim is owed to you regarding the Property located at 2525 Via Di Autostrada since the Order Confirming Chapter 11 Plan of Reorganization, entered on March 8, 2011 in William R. Schulte and Melani Schulte’s Bankruptcy Case No. 09-29123-MKN (the “Confirmation Order”).

1 b. How you or predecessor(s) applied each and every payment made on the claim
2 you assert is owed to you regarding the Property since the entry of the Confirmation Order.

3 c. How you or your predecessor(s) made the determination to apply late charges to
4 the loan secured by the property at 2525 Via Di Autostrada.

5 d. How you have calculated the amount you claim is owed to you regarding the
6 Property since entry of the Confirmation Order.

7 e. The general policies and procedures SN Servicing employs to ensure SN
8 Servicing complies with all bankruptcy court orders that pertain to claims held by SN Servicing
9 regarding the property at 2525 Via Di Autostrada.

10 f. The actions SN Servicing's predecessor(s) employed to ensure SN Servicing
11 and/or its predecessor(s) complied with the Confirmation Order, to include the names, titles,
12 and addresses of each individual who took action, and the dates and description of those
13 individuals' actions.

14 g. The actions SN Servicing took to process payments received by the Debtor from
15 March 8, 2011 to present.

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18 Schulte seeks from the Person Most Knowledgeable of SN Servicing Corporation to provide
19 production of documents relating to the Debtor's property at 2525 Via Di Autostrada as follows:

20 a. Please produce, from SN Servicing's servicing systems of record, any and all
21 documents regarding the mortgage loan account with respect to the property located at 2525
22 Via Di Autostrada, Henderson, NV 89074, including, but not limited to:

- 23 1. Note, promissory note, endorsements, allonges, riders,
24 attachments, amendments and/ or modifications.
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2. The deed of trust or mortgage, with any and all endorsements, allonges, riders, attachments and / or amendments.
 3. Statement of account, accounting, and/or documents that concern, refer, relate to, or describe all payments, credits, debits, interest charges, late fees, attorney fees, advances for taxes and insurance, any other fees or charges placed on the account, and credits applied to the mortgage loan account.
 4. Collection notes, full payment histories, payment history with commentary, account summaries, call logs, notices, correspondence of any kind, mortgage and escrow statements, records indicating account balance, and records indicating account status.
 5. Internal communications such as memoranda, handwritten notes, etc. and all electronically-stored information such as e-mails, telephone recordings, account records, etc.
- b. Please produce any and all contracts and/or agreements between your or your predecessor(s) and Debtor.
- c. Please produce any and all documents in your possession regarding the Chapter 11 bankruptcy case filed by William R. Schulte and Melani Schulte, Case No. 09-29123-MKN (the “2009” Bankruptcy”)
- d. Please produce copies of all documents showing how you have calculated interest on the amount you claim is owed to you regarding the Property located at 2525 Via Di Autostrada since the Order Confirming Chapter 11 Plan of Reorganization, entered on March 8, 2011 in the 2009 bankruptcy. (the “Confirmation Order”).
- e. Please produce copies of all documents showing how you or predecessor(s) applied each and every payment made on the claim you assert is owed to you regarding the Property since the entry of the Confirmation Order.

1 f. Please produce copies of all documents showing how you have calculated the
2 amount you claim is owed in any Proof of Claim filed in this case.

3 g. Please produce all documents evidencing any charges, fees, advances for taxes
4 and insurance, or any amount placed on the mortgage loan account related to the property at
5 2525 Via Di Autostrada since the Confirmation Order was entered.
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7 h. Please produce general policies and procedures SN Servicing employs to ensure
8 SN Servicing complies with all bankruptcy court orders that pertain to claims held or asserted
9 by SN Servicing in regard to the property at 2525 Via Di Autostrada.

10 i. Please produce documents showing how SN Servicing ensured SN Servicing
11 and/or its predecessor(s) complied with the Confirmation Order, to include the names, titles,
12 and addresses of each individual who took action, and the dates and description of those
13 individuals' actions.
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15 j. Please produce any and all documents evidencing any transfer or assignment of
16 the note relating to 2525 Via Di Autostrada.

17 k. Please produce any and all documents evidencing any transfer or assignment of
18 the deed of trust or mortgage relating to 2525 Via Di Autostrada.

19 l. Please produce any and all documents evidencing the standing of U.S. Bank
20 Trust National Association as Trustee of Chalet Series III Trust to file or be paid on any Proof
21 of Claim filed in this case.
22

23 m. Please produce any and all documents governing the relationship between you
24 and U.S. Bank Trust National Association as Trustee of Chalet Series III Trust.
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n. Please produce any documents and electronically stored information related to or documenting the transactions through which you acquired the portfolio of servicing rights that included the servicing rights for the loan relating to Debtor's property at 2525 Via Di Autostrada.

The requested discovery from the Person Most Knowledgeable of SN Servicing Corporation. is well within the scope of examination permitted under Fed. R. Bankr. P. 2004, which includes:

[t]he acts, conduct, or property or ... the liabilities and financial condition of the debtors, or ... any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a ... reorganization case under chapter 11 of the Code, ... the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.

WHEREFORE, Schulte respectfully requests that this Court enter its Order authorizing the examination of the Person Most Knowledgeable of SN Servicing Corporation as described herein. A proposed order is attached as Exhibit 1.

DATED this 23rd day of April, 2019.

/s/ Karen L. Kellett

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Admitted Pro Hac Vice 1/23/2019
Caitlyn N. Wells (TX Bar No. 24070635)
Admitted Pro Hac Vice 1/23/2019
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Attorneys for Schulte Properties LLC

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kellett & Bartholow PLLC and that on April 23, 2019, I caused to be served a true and correct copy of the EX PARTE MOTION FOR ORDER REQUIRING THE PERSON MOST KNOWLEDGEABLE OF SN SERVICING CORPORATION TO APPEAR FOR EXAMINATION PURSUANT TO FED. R. BANKR. P. 2004 REGARDING PROPERTY LOCATED AT 2525 VIA DI AUTOSTRADA in the following manner:

[X] a. Electronic Service

Under Administrative Order 02-1 (Rev. 8-31-04) of the United States Bankruptcy Court for the District of Nevada, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities.

[X] b. United States Mail

By depositing a copy of the above-referenced document for mailing in the United States Mail, first class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last known mailing addresses, on the date above written.

SN Servicing Corporation
323 Fifth Street
Eureka, CA 95501

The Prentice-Hall Corporation System
2215-B Renaissance Drive
Las Vegas, NV 89119

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 23, 2019.

/s/ Caitlyn N. Wells

An Employee of Kellett & Bartholow PLLC

EXHIBIT 1 – PROPOSED ORDER

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Attorneys for Schulte Properties LLC

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

SCHULTE PROPERTIES LLC,
Debtor(s)

Case No. BK-18-12734-mkn
Chapter 11

**ORDER GRANTING EX PARTE MOTION
FOR ORDER REQUIRING THE PERSON
MOST KNOWLEDGEABLE OF SN
SERVICING CORPORATION TO
APPEAR FOR EXAMINATION
PURSUANT TO FED. R. BANKR. P. 2004
REGARDING PROPERTY LOCATED AT
2525 VIA DI AUTOSTRADA**

1 This Court having reviewed the *Ex Parte* Motion for Order Requiring the Person Most
2 Knowledgeable of SN Servicing Corporation to Appear for Examination Pursuant to Fed. R. Bankr. P.
3 2004 regarding property located at 2525 Via Di Autostrada (the “Motion”) submitted by debtor Schulte
4 Properties LLC, and for good cause appearing;

5 IT IS HEREBY ORDERED that the Motion is GRANTED;

6 IT IS FURTHER ORDERED that the Person Most Knowledgeable of SN Servicing
7 Corporation shall appear for an examination under oath regarding the Debtor’s mortgage account and
8 SN Servicing ’s servicing of Debtor’s mortgage loan account located at 2525 Via Di Autostrada, before
9 a certified court reporter, at a time, place, and date to be mutually agreed upon by the parties, or if no
10 such agreement is reached, upon no less than fourteen (14) calendar days written notice by Schulte
11 Properties LLC for examination.

12 IT IS FURTHER ORDERED that the oral examination shall continue from day to day, as
13 necessary.

14 IT IS SO ORDERED.

15 Respectfully Submitted By:

16 /s/ Karen L. Kellett

17 Karen L. Kellett (TX Bar No. 11199520)

18 *Admitted Pro Hac Vice 1/23/2019*

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